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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 Renee M. Zinni and Marco S. D'Alonzo, ) No. CV 11-02143-PHX-FJM

10 Plaintiffs, )

**ORDER**

11 vs. )

12 Jackson White PC et al., )

13 Defendants. )  
14 )  
15 )

16 We have before us plaintiffs' motion to set aside/cancel trustee's sale (doc. 24) and  
17 defendants' response (doc. 26). Plaintiffs allege that defendants were not properly appointed  
18 as trustees and therefore have no authority to conduct a trustee's sale. They also allege that  
19 the opening bid is a grossly inadequate price. We previously denied plaintiffs' motion for  
20 preliminary injunction (doc. 22). If plaintiffs' motion is construed as a motion for  
21 reconsideration, it falls short of the standards of Rule 60(b), Fed. R. Civ. P. and LRCiv  
22 7.2(g). If viewed only as a motion to set aside the sale based on price, it is premature.

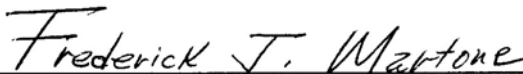
23 Plaintiffs contend that defendants had not been assigned power of attorney on the  
24 plaintiffs' property, but the record discloses that defendant Scott L. Potter possesses a special  
25 power of attorney from M&I Marshall & Ilsley Bank to conduct non-judicial trustee's  
26 foreclosure sales on the bank's behalf. (Doc. 26, ex. A). This document also grants him the  
27 right to execute a notice of substitution of trustee. His appointment as successor trustee was  
28 therefore not fraudulent.

1 "[A] sale of real property under power of sale in a deed of trust may be set aside solely  
2 on the basis that the bid price was *grossly* inadequate." In re Krohn, 203 Ariz. 205, 214, 52  
3 P.3d 774, 783 (2002). "[T]he debtor will have the burden of showing gross inadequacy as  
4 compared to fair market value . . . ." Id. at 211, 52 P.3d at 780. Plaintiffs allege that they  
5 have invested approximately \$356,000 in construction costs and mortgage payments (doc.  
6 24 at 6). They purchased their house on April 22, 2005 for \$350,000 (doc. 1 ¶ 7). They  
7 contend their house is now worth "at least \$650,000.00."

8 Plaintiffs ignore the fact that \$94,740.00 is the opening bid. The house may sell for  
9 well over this amount. In addition, Krohn dealt with setting aside a trustee's sale after it  
10 occurred, not precluding one based on a potentially low price, and does not provide authority  
11 for us to cancel the sale.

12 **IT IS HEREBY ORDERED DENYING** plaintiffs' motion to set aside or cancel the  
13 trustee's sale (doc. 24).

14 DATED this 4<sup>th</sup> day of January, 2012.

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 Frederick J. Martone  
18 United States District Judge  
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